

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

IN RE: : CASE NO. 03-14372
CHAPTER 13
RALPH R. BURRESS
BRENDA BURRESS : JUDGE JEFFERY P. HOPKINS
DEBTORS : **CHAPTER 13 TRUSTEE'S
RESPONSE TO MOTION FOR PAYMENT OF
UNCLAIMED FUNDS**

Comes now the Chapter 13 Trustee, Margaret A. Burks, and files this Response to the Motion for Payment of Unclaimed Funds (Doc. 33):

The Trustee has no objection to the relief sought by the Motion of Dilks & Knopik, LLC, assignee of PNC Bank, National Association. (PNC Bank was, in turn, successor to creditor, National City Bank) The Dilks & Knopik Motion seeks release of \$436.12 from the registry.

The Trustee notes, however, that the Motion asserts incorrect facts.

The Motion states in paragraph 4 that "Movant did not receive the check or did not negotiate the check...." That paragraph goes on to suggest that the Trustee mailed the disbursement to Movant's predecessor entity at a P.O. Box in Cleveland, and that a change in mailing addresses may have interfered with delivery to the creditor.

Movant did not adequately research the facts it asserts. The following is the timeline of events reflected in the Trustee's records:

- Disbursements on the claim were completed via a disbursement check issued by to National City by the Trustee on June 21, 2006. That disbursement was in the amount of \$5,165.61; total disbursements on this claim throughout the case totaled \$12,634.73 in principal, and \$2,816.32 in interest.
- This check was negotiated by National City.
- The Trustee's Final Report was filed June 23, 2006.
- National City sent its check to the Trustee, received by the Trustee on August 3, 2006, returning \$436.12; this amount does not match any prior disbursement made by the Trustee to National City.

The Trustee therefore takes exception to the implication that the Trustee did not complete all required disbursements to the creditor before completing her administration of this case. Not only was administration complete, but the creditor affirmatively rejected funds from a series of disbursement check, all of which it had negotiated.

Respectfully submitted,

/s/ Margaret A. Burks, Esq.
Margaret A. Burks, Esq.
Chapter 13 Trustee
Attorney Reg. No. OH 0030377

Francis J. DiCesare, Esq.
Staff Attorney
Attorney Reg. No. OH 0038798

Guinevere D. O'Shea, Esq.
Staff Attorney
Attorney Reg No. OH 0086523

600 Vine Street, Suite 2200
Cincinnati, Ohio 45202
513 621-4488
513 621-2643 (facsimile)
mburks@cinn13.org Correspondence only
goshea@cinn13.org
fdicesare@cinn13.org

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2014 a copy of the foregoing Response to Motion for Unclaimed Funds was served on the following registered ECF participants, electronically through the Court's ECF System at the e-mail address registered with the Court:

U.S. Trustee
36 East 7th Street
Suite 2030
Cincinnati, Ohio 45202

Keegan & Andrade
4440 Glen Este-Withamsville Rd.#350
Cincinnati, Ohio 45245

and on the following by ordinary U.S. Mail addressed to:

Ralph R. Burress
Bredan Burress
Debtor(s)
2620 Moler Road
Goshen, Ohio 45122

Brian J. Dilks, Esq.
Dilks & Knopik, LLC
35308 SE Center ST.
Snoqualmie, WA 98065

/s/ Margaret A. Burks, Esq.
Margaret A. Burks, Esq.